

Message Text

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DRAFTED BY EB/ITP/EWT:SHAAS:LPP

APPROVED BY EB/ITP:MWGLITMAN

COMMERCE:MR. MILLER

TREASURY:THUME

EUR/EE:MR. CHRISTENSEN

STR:MR. GREENWALD

L/EB:MR. PITMAN

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FM SECSTATE WASHDC

TO AMEMBASSY BUCHAREST IMMEDIATE

C O N F I D E N T I A L STATE 011521

E.O. 11652: GDS

TAGS: EEWT, RO

SUBJECT:US-ROMANIAN TRADE NEGOTIATIONS - ROMANIAN SAFEGUARD

REF: (A) BUCHAREST 187; (B) BUCHAREST 200

1. RE ROMANIAN DRAFT ANNEX I, 1/A, OUR PRINCIPAL CONCERN IS NOT TO RESTRICT USG FLEXIBILITY. WE CONCUR WITH DELEGATION'S VIEW OF UNACCEPTABILITY OF QUOTE IN ORDER TO DEMONSTRATE THE EXISTENCE OF A MARKET DISRUPTION SITUATION UNQUOTE. WITH RESPECT TO PARENTHETICAL PHRASE, FIRST WORD QUOTE INCLUDING UNQUOTE SHOULD BE DELETED AND IN ITS PLACE THE PHRASE QUOTE AND MAY INCLUDE SUCH FACTORS AS UNQUOTE SHOULD BE INSERTED. PURPOSE OF THIS CHANGE IS TO AVOID OBLIGATING OURSELVES TO NECESSARILY EXAMINE ALL THE
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FACTORS LISTED OR TO RESTRICT OURSELVES TO JUST THOSE

FACTORS WHEN MAKING A DETERMINATION.

2. EFFECT OF ROMANIAN DRAFT ANNEX I, 1/B WOULD BE TO REMOVE OBLIGATION OF EXPORTING COUNTRY TO TAKE ACTIONS PRESCRIBED BY IMPORTING COUNTRY, EITHER AFTER CONSULTATIONS OR IN EVENT EMERGENCY SITUATION EXISTS. IN THIS LIGHT, WE SEE GOR OMISSION OF PARA 1(B) OF US DRAFT ANNEX I AS SIGNIFICANT. WE WOULD REQUIRE THAT GOR ACCEPT, AS AGREED, WHATEVER QUANTITATIVE IMPORT OR EXPORT LIMITATIONS OR RESTRICTIONS THE IMPORTING PARTY STATES TO BE NECESSARY TO PREVENT OR REMEDY THE MARKET DISRUPTION IN QUESTION.

SUCH ROMANIAN ACCEPTANCE IS NECESSARY IN ORDER TO CONFORM TO CONGRESSIONAL INTENT THAT PROVISIONS ON SAFEGUARDS BE SIMILAR TO THOSE OF US-SOVIET TRADE AGREEMENT. DELEGATION MAY WISH TO POINT OUT THAT GOR COOPERATION IN IMPLEMENTING EXPORTING COUNTRY RESTRICTIONS AND LIMITATIONS WORKS DECIDEDLY IN THEIR FAVOR SINCE US IMPORT RESTRICTIONS, IF REQUIRED TO CARRY THE FULL WEIGHT OF PROTECTION, CAN BE EXPECTED TO BE MORE ONEROUS THAN EXPORT RESTRICTIONS UNDERTAKEN BY ROMANIA ON MUTUALLY AGREED BASIS.

3. WITH REGARD TO EMERGENCY SITUATIONS, WE ARE PREPARED TO INTRODUCE FLEXIBILITY BY NOT REQUIRING THAT EXPORTING PARTY ASSUME OBLIGATION TO PUT INTO EFFECT, PRIOR TO THE INITIATION OF CONSULTATIONS, LIMITATIONS AND RESTRICTIONS UPON WHICH THE IMPORTING PARTY DECIDES. AS FIRST SENTENCE OF ANNEX I PARA 1/C OF US DRAFT INSERT QUOTE AT THE REQUEST OF THE IMPORTING PARTY, IF IT DETERMINES THAT AN EMERGENCY SITUATION EXISTS, IT MAY PUT INTO EFFECT SUCH IMPORT LIMITATIONS AND OTHER RESTRICTIONS AS IT DEEMS NECESSARY. UNQUOTE. SECOND SENTENCE SHOULD NOW READ QUOTE MOREOVER, IF THE IMPORTING PARTY SO REQUESTS, EXPORT LIMITATIONS OR OTHER RESTRICTIONS SHALL BE PUT INTO EFFECT PRIOR TO THE CONCLUSION OF SUCH CONSULTATIONS.

BY THIS CHANGE, US WOULD HAVE TO WAIT UNTIL CONSULTATIONS HAD BEGUN AND RESTRICTIONS DISCUSSED BEFORE REQUIRING, IN AN EMERGENCY SITUATION, THAT GOR IMPLEMENT SUCH EXPORT

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RESTRAINTS.

IN SUM, WHILE WE RESERVE RIGHT TO TAKE IMPORT RESTRAINT ACTION AS NECESSARY, WE DESIRE CLEAR OBLIGATION ON PART OF ROMANIANS TO USE EXPORT RESTRAINT AS THE PREFERRED METHOD BECAUSE BOTH PARTIES CONSIDER IT MOST EFFECTIVE MEANS OF DEALING WITH MARKET DISRUPTION AND IN BEST INTEREST OF BOTH PARTIES.

4. RE PARA 6 REFTTEL(A) AND PARA 2 REFTTEL (B), BECAUSE
US NOT PREPARED TO ACCEPT JUSTIFICATION FOR COMPENSATION
(AS IMPLIED IN FIRST SENTENCE ROMANIAN DRAFT PARA 1/C)
NOR RETALIATION (AS IMPLIED IN SECOND SENTENCE PARA 1/C),
WE FIND ENTIRE 1/C UNACCEPTABLE. THE INTENT OF PARA 2
ABOVE IS TO EXCLUDE COMPENSATION OR RETALIATION.

5. ROMANIAN DRAFT 1/D (REFTTEL A), INsofar AS IT EXCEEDS

SECOND SENTENCE OF US DRAFT PARA 1(A) OF ANNEX I, IS
UNACCEPTABLE. DELETE QUOTE THE INTERESTS OF THE EXPORTING
COUNTRY, ITS LEVEL OF DEVELOPMENT, THE IMPORTANCE OF THE
RESPECTIVE INDUSTRY TO ITS ECONOMY, ITS OVERALL BALANCE
OF PAYMENTS, AND THE TRADE BALANCE WITH THE IMPORTING
COUNTRY AS WELL AS OF UNQUOTE.

6. LANGUAGE OF PARA 4 REFTTEL B REQUIRES FOLLOWING
CHANGES: A) ADJUSTMENT AS PER PARA 1 ABOVE; B) WE CANNOT
ACCEPT PHRASE QUOTE INDUSTRY AND PRODUCT INVOLVED
UNQUOTE. DELEGATION SHOULD ADHERE TO QUOTE PRODUCT
UNQUOTE WHICH CONFORMS TO CONGRESSIONAL INTENT; C)
APPRECIATE DELEGATION'S DESIRE TO FIND WAY TO MAKE
INNOCUOUS REFERENCE TO ECONOMIC RELATION FACTORS BUT LAW
PERMITS US TO TAKE INTO ACCOUNT ONLY DOMESTIC MARKET
FACTORS. ACCORDINGLY CANNOT ACCEPT SENTENCE BEGINNING
QUOTE IN CARRYING OUT UNQUOTE.

7. AS EXPLAINED IN PARA 2 ABOVE, OMISSION OF PARA 2 OF
US DRAFT, ESPECIALLY AS SUCH OMISSION REDUCES THE
OBLIGATIONS OF THE EXPORTING COUNTRY, IS UNACCEPTABLE.

8. IF DELEGATION BELIEVES IT WOULD BE USEFUL STEP IN
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NEGOTIATIONS, IT MAY PROPOSE THAT CONSULTATION BE CON-
CLUDED WITHIN NINETY DAYS RATHER THAN SIXTY DAYS. THIS
WOULD, WE BELIEVE, STILL SATISFY LEGISLATIVE REQUIREMENT
OF PROMPT CONSULTATION IN MARKET DISRUPTION SITUATION. KISSINGER

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